

Peter Szanto 949-887-2369
11 Shore Pine
Newport Beach CA 92657

US BANKRUPTCY COURT
DISTRICT OF OREGON

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U.S. BANKRUPTCY COURT

DISTRICT OF OREGON

1001 SW 5th Ave #700 Portland, OR 97204 (503) 326-1500

In Re: Peter Szanto, Debtor

US Trustee, plaintiff

v.

SZANTO, DEFENDANT

Adversarial 18-ap-03022-pcm

Core Case No. 16-33185-pcm

Debtor's Notice of Motion and Motion

Pursuant to Fed. Rule of Bankruptcy

Procedure 9011 for

Sanctions Based on Plaintiff's Willful

Abuse and Disregard of Law

HEARING IS REQUESTED

1. Debtor's Certification Relating to Pre-filing Conferral
(Certification Pursuant to LBR 7007-1 (a))

Debtor telephoned United States Trustee, Ms McClurg on 10-26, 2018.
Ms. McClurg did not answer her phone. Szanto left a voice message seeking
a return call about the issues herein, but since then has NOT received any

1 return call from Ms McClurg. Therefore, no resolution of any of the matters
2 herein has occurred. [EXHIBIT A, sent to plaintiff, proves that effort].

3 Pursuant to LBR 7007-1(a)(1)(A): a good faith effort at resolution was
4 made, but the parties were unable to resolve the conflict as to the issues
5 which are the subjects of this motion.
6

7 I certify under penalty of perjury under the laws of the United States,
8 that foregoing is true and correct. Signed at Irvine CA

9
10 DATED 11-24-2018  Peter Szanto

11
12 **2. FACTS**
13

14 FRBP 9011 provides relief whenever the rules are intentionally
15 violated by a party. Plaintiff filed a supplemental pleading. There is no
16 provision in the rules for any supplemental pleadings.
17

18 Debtor was very surprised that this Court took no affirmative action to
19 protect debtor from such an intentional and obvious violation of the rules.
20

21 This Court's discretion does not extend to condoning and validating
22 violations of the rules, ever!
23

24 This is particularly important here, because now that the U.S. Trustee
25 has been able to disregard all of its discovery obligations, the U.S. Trustee
26 seeks intentionally to evade and abuse further process so as to complete the
27 abrogation of all of debtor's rights.
28

1 The most foundational and fundamental Constitutional rights are at
2 stake here: **MOST PARTICULARLY WHETHER OR NOT DEBTOR HAS**
3 **ANY RIGHTS AT ALL!! – OR WHETHER DEBTOR’S BANKRUPTCY**
4 **RIGHTS ARE TO BE SUBSUMED BY THE U.S. TRUSTEE JUST DOING**
5 **WHATEVER SHE PLEASES WITHOUT CONSIDERATION FOR LAW,**
6 **TRUTH, JUSTICE OR THE PROPER PROCESS MANDATED THEREBY.**

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9 **3. Memorandum**

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11 Federal Rules of Bankruptcy Procedure, Rule 9011 **requires**
12 **and mandates** that:

13
14
15 **at FRBP 9011(a): that:**

16
17 “Every petition, pleading, written motion, and other paper,
18 except a list, schedule, or statement, or amendments thereto, shall be signed
19 by at least one attorney of record in the attorney's individual name. A party
20 who is not represented by an attorney shall sign all papers. Each paper shall
21 state the signer's address and telephone number, if any. An unsigned paper
22 shall be stricken unless omission of the signature is corrected promptly after
23 being called to the attention of the attorney or party.”

24
25
26
27 **and that at FRBP 9011(b):**
28

1 “By presenting to the court (whether by signing, filing,
2 submitting, or later advocating) a petition, pleading, written motion, or other
3 paper, an attorney or unrepresented party is certifying that to the best of the
4 person's knowledge, information, and belief, formed after an inquiry
5 reasonable under the circumstances,

6
7 (1) it is not being presented for any improper purpose, such as
8 to harass or to cause unnecessary delay or needless increase in the cost of
9 litigation;

10
11 (2) the claims, defenses, and other legal contentions therein are
12 warranted by existing law or by a nonfrivolous argument for the extension,
13 modification, or reversal of existing law or the establishment of new law;

14
15 (3) the allegations and other factual contentions have
16 evidentiary support or, if specifically so identified, are likely to have
17 evidentiary support after a reasonable opportunity for further investigation or
18 discovery; and

19
20 (4) the denials of factual contentions are warranted on the
21 evidence or, if specifically so identified, are reasonably based on a lack of
22 information or belief.”
23

24
25
26 Here, the filing of a supplemental response [EXHIBIT of 9011
27 Preliminary Request] was unreasonable, because it was a blatant violation
28 of the rules and contrary to law [see EXHIBIT B for complete analysis].

of DOCKET ENTRY
#146

1 Indeed, the supplemental pleading was filed merely so that the U.S.
2 Trustee could **exert its absolute dominion and control over this Court,**
3 **all to debtor's detriment and harm.**

4
5 That detriment is the U.S. Trustee's attempt to prevail in an
6 action without fulfilling her obligation to participate and comply with the
7 discovery rules. That is, blatantly trying to deprive debtor of the discovery
8 materials upon which plaintiff's contentions are based.

9
10 The U.S. Trustee is undertaking this crass hiding of evidence so
11 that debtor is deprived of the opportunity timely and properly to prepare for
12 trial.

13
14
15 **at FRBP 9011(c) there is provision for sanctions:**

16
17
18 "If, after notice and a reasonable opportunity to respond, the
19 court determines that subdivision (b) has been violated, the court may,
20 subject to the conditions stated below, impose an appropriate sanction upon
21 the attorneys, law firms, or parties that have violated subdivision (b) or are
22 responsible for the violation."
23

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27 **The request for sanctions is initiated by:**

1 “A motion for sanctions under this rule shall be made
2 separately from other motions or requests and shall describe the specific
3 conduct alleged to violate subdivision (b). It shall be served as provided
4 in Rule 7004. The motion for sanctions may not be filed with or presented to
5 the court unless, within 21 days after service of the motion (or such other
6 period as the court may prescribe), the challenged paper, claim, defense,
7 contention, allegation, or denial is not withdrawn or appropriately corrected,
8 except that this limitation shall not apply if the conduct alleged is the filing
9 of a petition in violation of subdivision (b). If warranted, the court may
10 award to the party prevailing on the motion the reasonable expenses and
11 attorney's fees incurred in presenting or opposing the motion. Absent
12 exceptional circumstances, a law firm shall be held jointly responsible for
13 violations committed by its partners, associates, and employees.”
14

15
16
17 Here, as [EXHIBIT A] demonstrates, debtor wrote a cover letter
18 and [EXHIBIT B] proposed motion which were served on the U.S. Trustee.
19

20
21 The proposed motion [EXHIBIT B] with the word proposed now
22 crossed-out and signed in ink are submitted for the Court's consideration
23 and action. The proposed motion was submitted to the U.S. Trustee on
24 10-26-18, and there has been no response or action to conform to law
25 regarding the fact that supplemental oppositions are rule violations.
26
27
28

FRBP 9011(c)(2) provides for sanctions as follows:

“A sanction imposed for violation of this rule shall be limited to what is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated. Subject to the limitations in subparagraphs (A) and (B), the sanction may consist of, or include, directives of a nonmonetary nature, an order to pay a penalty into court, or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of some or all of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation.”

Here, debtor has already lost \$1.3 million because of the false and improper representations made by the U.S. Trustee to convert the matter to a Chapter 7 a year ago.

Now, as demonstrated by the U.S. Trustee's purposeful and obviously intransigent unwillingness to provide any discovery at all to debtor, there must clearly be something very very very very wrong with the original representations which the U.S. Trustee made a year ago. (And now the U.S. Trustee is engaged in intentional and focused cover-up and evidence destruction to cover its tracks. Apparently, the U.S. Trustee will now do anything (including filing a non-conforming paper, as here) to cover-up its improper actions from last year so as to prevent debtor from rehabilitating himself by pointing out and explaining the filthy lies the U.S. Trustee perpetrated on this Court a year ago.

1 This Court should not participate in any further efforts to
2 exterminate and eradicate debtor based on materials which can now be
3 presumed to have been contrived and fabricated by the U.S. Trustee
4 (why else would the U.S. Trustee not participate in discovery?)
5


6 **The appropriate sanction, is to dismiss this action with**
7 **prejudice, because otherwise this Court will merely participate in the**
8 **further depravation of debtor's rights without any basis at law, truth**
9 **or justice for denying debtor a discharge.**
10
11

12 **4. Declaration**

13

- 14 1. My name is Peter Szanto and I am the debtor herein.
- 15 2. This is my truthful declaration to which I will testify in court.
- 16 3. The abuse and violation of the rules by the U.S. Trustee is an
17 obscenity: governmental employees purposefully depriving a
18 citizen of 1st Amendment rights to proper and fair judicial process.
- 19 4. For reasons which should be painfully clear to the Court, the
20 U.S. Trustee is attempting to cover-up its lack of evidence
21 by playing games and depriving debtor of discovery, the improper
22 supplemental pleading is merely another charade to that end.
- 23 5. This Court should not tolerate such pathetic nonsense which is in
24 absolute defiance of the law.
25
- 26 6. I declare under penalty of perjury under the laws of the United
27 States that the foregoing is true and correct.
28

7. Signed at Irvine CA.

DATED 24 November 2018 /s/  Peter Szanto

5. Conclusion

For the reasons fully stated herein, debtor asks dismissal of this action with prejudice based on the continuing abuse of process by the plaintiff.

Respectfully,

DATED 26 November 2018 /s/  Peter Szanto

PROOF OF SERVICE

My name is Maquisha Reynolds, I am over 21 years of age and not a party to the within action. My business address is PO Box 14894, Irvine CA 92623.

On the date indicated below, I personally served the within: MOTION on the following by placing in postage pre-paid envelopes of the within document

U.S. Department of Justice
Office of the United States Trustee
620 SW Main Street, Suite 213
Portland, OR 97205

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Signed at Lido CA.

Dated 11/26/ 2018 /s/  M. Reynolds

Peter Szanto

949-887-2369


October 26, 2018

Dear Ms Mc Clurg –

Please find attached the Motion I will file pursuant to FRBP 9011, if you do not
take appropriate action within the time provided for by law. Please call me so that we
may discuss what is appropriate in this instance.

Kindest regards,

/s/ Peter Szanto

*sent electronically signed for
purpose of
this motion*


EXHIBIT

A

T- 11/26/18

MOTION

Peter Szanto 949-887-2369
11 Shore Pine
Newport Beach CA 92657

U.S. BANKRUPTCY COURT
IN AND FOR THE DISTRICT OF OREGON

In Re: Peter Szanto, Debtor

U S Trustee, Plaintiff

V.

Peter Szanto, Defendant

Adv. Proc. No. 18-03022-pcm

Core Case No. 16-33185-pcm7

~~Proposed FRBP 9011 Motion~~

Notice of Motion and Motion for Sanctions
for Plaintiff's Continuing Abuses of
Process and Intentional Disregard of the
Rules of this Court and the Federal Law of
the United States of America

HEARING REQUESTED

EXHIBIT B TO
11-26-18
MOTION

1. Plaintiff's Certification Relating to Pre-filing Conferral
(Certification Pursuant to LBR 7007-1 (a))

The initial certification derives from FRBP 9011 which requires that

1 a motion under that rule be initially submitted to the offending party. The
2 efforts intended to compromise this matter allow the offending party to take
3 action is the conferral envisioned by LBR 7007-1

4 As of the signing of the instant paper, debtor has received no
5 communication from Ms McClurg regarding the instant application.
6

7 Therefore, pursuant to rule **LBR 7007-1 (a)**, debtor has sought
8 conferral so as to resolve the situation, but has been unsuccessful in that
9 regard.
10

11 I certify under penalty of perjury under the laws of the United States,
12 that foregoing is true and correct. Signed at Irvine CA.
13

14 DATED 10/26/2018 /s/  signed electronically Peter Szanto
15
16
17
18

19 **2. Notice**
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21 To the Court and the U.S. Trustee, please take notice, comes now
22 debtor seeking relief such that this honorable Court impose sanctions as
23 punishment for plaintiff's continuing abuse of the judicial process of this
24 Court and the Federal Law of the United States of America.
25
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3. Facts

Debtor downloaded [EXHIBIT A, Docket Entry 146] from PACER.

The document is styled:

UNITED STATES TRUSTEE'S
SUPPLEMENTAL OBJECTION TO
MOTIONS FOR ORDER
COMPELLING DISCOVERY AND
DISCLOSURE

The local rules do not provide any legal basis for the filing of a
“supplemental objection.” (No special dispensation is created for those with
absolute immunity from being held accountable for their bad actions!!)

Thereon, the non-conforming filing should have been stricken by
the clerk of the Court immediately upon filing.

4. Memorandum Regarding Abuse of Process and Violation of the Federal Law

The Local Motion Practice Rules of this Court provide for Motions and
Responses thereto, only (LBR 7007-1). Supplemental objections are barred
by the LBR 7007-1(b)(4) which is absolutely clear, applicable to all, and states
in simple, clear, easily understandable and very plain English:

“(4) Further Briefing. No further briefing is allowed.”

1 Even though this Court has granted plaintiff absolute immunity in
2 all matters related to this case, debtor contends that purposeful violation of
3 the rules by the plaintiff cannot be allowed without abrogating debtor's right
4 to equal protection of the laws and due process in conformance with the
5 laws as promulgated (IE, without destroying debtor's Constitutional
6 protections to a fair hearing and fair trial.).

7
8 Rules of practice adopted by United States District Courts (of
9 which this Court is division) have force and effect of law and are binding
10 upon parties *Woods Const. Co. v. Atlas Chemical Industries, Inc.*, (1964)
11 337 F.2d 888. Any court which promulgates a rule must enforce said rule
12 until changed by appropriate action.(*ibid*) Here, however, the plaintiff's
13 supplemental pleading intentionally violated this Court's rules.

14
15 Emphatically stated, this Court's rules have the force of law. *Link v.*
16 *Wabash R. Co.*, (1961) 291 F.2d 542. Very clearly, plaintiff's supplemental
17 pleading intentionally violated this Court's rules.
18

19
20 Local Rules are the "laws of the United States." *United States v.*
21 *Hvass*, (1958) 355 U.S. 570, 575-76, 78 S.Ct. 501, 504-05, 2 L.Ed.2d 496.
22 Here, plaintiff's supplemental pleading violated this Court's rules, which are
23 the "laws of the United States" (*ibid*).
24

25
26 **Thereupon, debtor prays this court issue an appropriate**
27 **sanction for the violation of the rules by the plaintiff.**
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5. Declaration of Peter Szanto

1. My name is Peter Szanto, I am the defendant herein.
2. This is my truthful declaration as to the continuing issue of abusive filings and intentional misuse of process by the plaintiff.
3. Plaintiff's many abuses of law are deliberate, planned and are being carried out because plaintiff knows that Judge McKittrick despises debtor; and will allow plaintiff to do whatever she pleases, regardless of truth, justice or law.
4. I declare under penalty of perjury, under the laws of the United States, that the foregoing is true and correct.
5. Signed at Irvine, California.


DATED 10-26-2018 /s/ signed electronically Peter Szanto

6. Conclusion

The rule is very clear that there is no provision for supplemental pleadings. Here, because plaintiff has absolute immunity, she believes she can play absurd games with the Court and debtor's time and patience. The

1 Court is called upon to show plaintiff that her absolute immunity is not
2 boundless and does not extend to violation and abuse of the rules in
3 derogation of plaintiff's fundamental rights.
4

5
6 DATED 10-26-2018 /s/  signed electronically Peter Szanto
7
8

9 **Proof of Service**
10
11

12 My name is Maquisha Reynolds, I am over 18 years of age and not a
13 party to this action. My business address is PO Box 14894, Irvine CA 92623.
14
15

16 On the date indicated below, I e-mailed the within Motion to:
17
18

19 U.S Trustee, Carla Gowen McClurg at

20 Carla.McClurg@usdoj.gov
21
22

23 I declare under oath that the foregoing is true and correct.

24 Signed at Irvine CA.
25

26 10-26-2018 /s/  signed electronically Maquisha Reynolds
27
28

Jonas V. Anderson, VA SB #78240
Acting Assistant United States Trustee
Carla Gowen McClurg, OSB #165144
Trial Attorney
U.S. Department of Justice
Office of the United States Trustee
620 SW Main Street, Suite 213
Portland, OR 97205
Tel: (503) 326-7659
Email: carla.mcclurg@usdoj.gov

Attorneys for Gregory M. Garvin,
Acting United States Trustee for Region 18, Plaintiff

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON**

In re

Peter Szanto,

Debtor.

United States Trustee,

Plaintiff,

v.

Peter Szanto,

Defendant.

Case No. 16-33185-pcm7

Adversary No. 18-03022-pcm

**UNITED STATES TRUSTEE'S
SUPPLEMENTAL OBJECTION TO
MOTIONS FOR ORDER
COMPELLING DISCOVERY AND
DISCLOSURE**

Hearing Date: November 1, 2018

Hearing Time: 10:30 a.m.

Telephone Hearing

Acting United States Trustee for Region 18, Gregory M. Garvin (the "United States Trustee"), the plaintiff in the above-referenced adversary proceeding, by and through his attorney, Carla Gowen McClurg, hereby files this supplemental objection to Debtor's Motions for Order Compelling Discovery and Disclosure, ECF Nos. 47, 48, 49, and 50 filed on July 13, 2018 (the "Motions").

**Page 1 – UNITED STATES TRUSTEE'S SUPPLEMENTAL OBJECTION TO MOTIONS
FOR ORDER COMPELLING DISCOVERY AND DISCLOSURE**

*EXHIBIT A to
proposed 9/11*

The UST filed the United States Trustee's Objection to Motions for Order Compelling Discovery and Disclosure on July 27, 2018, ECF No. 55. The UST submits this supplemental objection to advise the Court that the UST has attempted to provide non-privileged documents and information relied upon by the UST in preparing the complaint filed in the above-referenced adversary proceeding to Defendant. Defendant has failed to accept delivery of such documents and information or communicate with the UST concerning his availability to accept delivery. These efforts are described in the Declaration of Carla Gowen McClurg in Support of United States Trustee's Objection to Defendant's Motion (i) for Sanctions for Discovery Abuse, (ii) to Restrain Currently Pending Subpoenas, and (iii) to Recall Currently Issued Subpoenas filed on October 3, 2018, ECF No. 109 (the "McClurg Declaration"). The UST has not received further communications from Defendant regarding his availability or willingness to accept delivery of documents and information from the UST since the filing of the McClurg Declaration.

DATED this 26th day of October, 2018.

GREGORY M. GARVIN
Acting United States Trustee for Region 18

/s/ Carla Gowen McClurg
Carla Gowen McClurg, OSB #165144
Trial Attorney

CERTIFICATE OF SERVICE

I hereby certify that on October 26, 2018, I served a copy of the foregoing **UNITED STATES TRUSTEE'S SUPPLEMENTAL OBJECTION TO MOTIONS FOR ORDER COMPELLING DISCOVERY AND DISCLOSURE** by mailing a copy of this document, by United States first class mail, postage prepaid, addressed to the following:

Peter Szanto
11 Shore Pine
Newport Beach, CA 92657

I further certified that I emailed a copy of the foregoing document to the defendant on October 26, 2018 at the following email address: szanto.pete@gmail.com.

GREGORY M. GARVIN
Acting United States Trustee for Region 18

/s/ Carla Gowen McClurg
CARLA GOWEN McCLURG, OSB #165144
Trial Attorney

FedEx

Express

ORIGIN ID: DTHA
SZANTO
SZANTO
P.O. BOX 14894

(949) 887-2369

SHIP DATE: 26 NOV 18
ACTWGT: 0.50 LB
CAD: 112243018/NET4040

BILL SENDER

IRVINE, CA 92623
UNITED STATES US

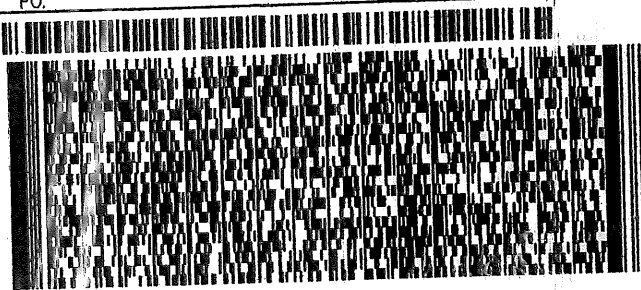
TO **CLERK-DIST OREGON**
US BANKRUPTCY COURT PORTLAND
1001 SW 5TH AVE #700
ROOM 700 @ 1001 SW 5TH AV
PORTLAND OR 97204

(503) 610-0865

REF:

INV:
PO:

DEPT:



FedEx
Express



TUE - 27 NOV 3:00P

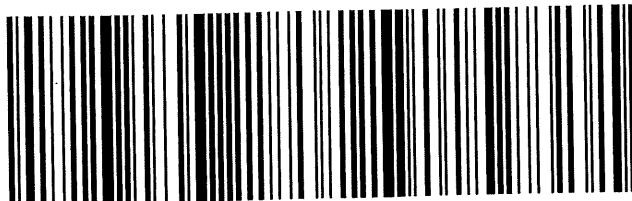
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TRK# 7738 0847 1067
0201

TUE - 27 NOV 3:00P
STANDARD OVERNIGHT

WS MRIA

97204
OR-US PDX



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Extremely Urgent